

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION**

POLYZEN, INC.

Plaintiff,

v.

RADIADYNE, LLC

Defendant.

Civil Action No. 5:11-CV-662-D

**SCHEDULING ORDER**

Pursuant to this Court's October 26, 2012 Order, Document # 34 and Fed. R. Civ. P. 16(b), the parties, having met and conferred pursuant to Fed. R. Civ. P. 26(f) hereby submit this scheduling order, as set forth below.

	<b>EVENT</b>	<b>PROPOSED DEADLINE</b>
1	Parties to conduct mediation	October 9, 2012
2	Parties to conduct a Fed. R. Civ. P. 26(f) conference	October 18, 2012
3	Parties commence discovery	October 18, 2012
4	Parties submit a Fed. R. Civ. P. 26(f) Report and Discovery Plan, including a [Proposed] Scheduling Order	December 11, 2012.
5	Parties exchange Fed. R. Civ. P. 26(a)(1) Initial Disclosures	December 17, 2012
6	Polyzen serves its Initial Disclosure of Patent Infringement Contentions in the form of a claim chart, as well as document production concerning those Contentions, as required by N.C. Local Rule 303.2.	December 21, 2012
7	Radiadyne serves its Initial Disclosure of Noninfringement and Invalidity Contentions in the form of claim charts, as well as document production concerning those Contentions, and document production concerning its claims against Polyzen for fraud, breach of contract and unfair competition under 15 U.S.C. 1125(a), as required by N.C. Local Rule 303.4.	January 21, 2013

8	Parties exchange lists of claim terms that they will ask the Court to construe.	January 25, 2013
9	Parties meet and confer to finalize list of claim terms that they will ask the Court to construe.	February 1, 2013
10	Deadline for both parties to disclose the identity of expert witnesses on claim construction issues, for which the Party has the burden of proof, including the name of the expert, the expert's CV, and a very short statement of the issues on which the expert will opine.	February 1, 2013
11	Parties exchange Proposed Claim Construction Statements, which includes a proposed construction for each term that the parties will ask the Court to construe and an identification of all intrinsic and extrinsic evidence that supports each proposed construction.	February 8, 2013
12	Parties exchange expert witness statements on claim construction issues describing each topic on which the expert will opine and a short description of the opinion of the expert on each topic. Such expert witness statement can be relatively short, from 1-2 pages.	February 22, 2013
13	Parties complete fact discovery relating to Claim Construction.	March 29, 2013
14	Deadline for parties to file motions to amend pleadings or to add parties.	April 12, 2013
15	Parties to file a Joint Claim Construction Statement setting forth their respective proposed constructions for each claim term that the parties will ask the Court to construe, a statement of any stipulated construction(s) of any claim term(s), and an identification of all intrinsic and extrinsic evidence that supports each proposed construction.	April 12, 2013
16	Parties complete expert discovery regarding Claim Construction	April 19, 2013
17	Parties to file and serve Opening Claim Construction Briefs with supporting evidence and identification of any proposed Claim Construction Hearing witnesses.	April 30, 2013
18	Parties file and serve any Responsive Claim Construction Briefs and supporting evidence directly rebutting their opponents' supporting evidence and identifying any additional proposed Claim Construction Hearing witnesses	May 21, 2013
19	Parties file and serve Reply Claim Construction Briefs responding to any new issue raised by an opposing party in its Responsive Claim Construction Brief. The Reply Brief shall be no longer than eight (8) pages in length, excluding caption of the case and signature and service pages.	May 31, 2013

20	Parties confer to propose schedule to the Court for Claim Construction Hearing	May 31, 2013
21	Claim Construction Hearing	TBD
22	Claim Construction Ruling	TBD
23	Deadline for amending final infringement contentions based upon claim construction decision	15 days after Claim Construction ruling
24	Deadline for amending final invalidity contentions based upon claim construction or amendment of infringement contentions	30 days after Claim Construction ruling
25	Production of any advice of counsel for which privilege has been waived, written summary of any oral advice and related documents, and related privilege log	30 days after Claim Construction ruling
26	Parties disclose the identities of any expert witnesses whose testimony they will offer in any further proceeding in this case and provide the expert witness disclosures required by Fed. R. Civ. P. 26(a)(2)	45 days after Claim Construction Ruling.
27	Close of remaining fact discovery	60 days after Claim Construction Ruling
28	Opening expert reports on issues for which the party bears the burden of proof	75 days after Claim Construction ruling
29	Rebuttal expert reports	105 days after Claim Construction ruling
30	Close of expert discovery	135 days after Claim Construction ruling
31	Deadline to file dispositive motions	30 days after close of expert discovery
32	Opposition to dispositive motions	21 days after dispositive motions filed
33	Replies to dispositive motions	14 days after opposition to dispositive motions filed
34	Parties confer to propose a pretrial and trial schedule to the Court, if necessary	14 days after Court rules on all dispositive motions
35	Pretrial submissions	7 days prior to Pretrial Conference set in pretrial schedule
36	Final Pretrial Conference	TBD
37	Trial	TBD

Respectfully submitted on this 11 day of December, 2012,

/s/ Joseph J. Zito

Joseph J. Zito

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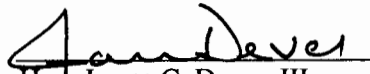
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SO ORDERED:

Date: January 22, 2013

  
Hon. James C. Dever, III  
United States District Judge